



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 20, 1995

Mr. Barney L. Knight  
Attorney at Law  
Executive Office Terrace  
111 West Anderson Lane, Suite D218  
Austin, Texas 78752

OR95-1504

Dear Mr. Knight:

We received your request for an open records decision pursuant to section 552.301 of the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36566.

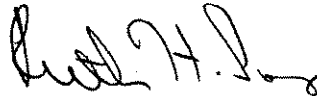
Gun Barrel City (the "city") received eleven open records requests for various types of records. You assert that the requested records are excepted from disclosure under section 552.103(a) of the Open Records Act. For information to be excepted under section 552.103(a), the city must demonstrate that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984 writ ref'd n.r.e); Open Records Decision No. 551 (1990) at 4. You submitted to this office petitions showing that the city is involved in pending litigation. However, you did not submit records responsive to the request to this office for review. Without reviewing the records at issue, this office is unable to determine whether those records are related to the subject of the litigation.

Please note that chapter 552 of the Government Code was significantly amended by the Seventy-fourth Legislature effective September 1, 1995. See Act of May 29, 1995, H.B. 1718, 74th Leg., R.S. (to be codified at Tex. Gov't Code § 552). Pursuant to section 552.303, this office asked you to submit a copy of the specific records requested, or a representative sample if the documents were numerous and repetitive, so that we could make a determination as to your section 552.103(a) claim. We also notified you that your failure to supply the records within seven days from November 1, 1995, the date of notification, would result in the presumption that the records at issue are public.

Since you did not submit the records at issue, they are presumed public. We have enclosed a list of some of the types of information that may be confidential by law and thus may not be released. *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense). Information not otherwise confidential must be released.

If you have any questions regarding this matter, please contact this office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Ruth H. Soucy", with a stylized flourish at the end.

Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/rho

Ref.: ID# 36566

Enclosure: Confidentiality list

cc: Mr. B.K. Ingram  
(w/enclosure)